

STATE BOARD OF EDUCATION

ADMINISTRATIVE CODE

COMMENT/RESPONSE FORM

This comment and response form contains comments from the December 16, 2009 meeting of the State Board when the draft regulations were considered at Discussion level.

Topic: Katzenbach School for the Deaf

Meeting Date: January 20, 2010

Code Citation: N.J.A.C. 6A:21

Level: Proposal Level

Division: Student Services

Completed by: Office of the
Assistant Commissioner

SUMMARY OF COMMENTS AND RESPONSES

The following is a summary of the comments received at the December 16, 2009 meeting of the State Board when the draft regulations were considered at Discussion level. Every commenter is identified at the end of each comment by a letter which corresponds to the following list:

- A Arcelio Aponte, Member
State Board of Education
- B Ronald K. Butcher, Member
State Board of Education
- C Edithe Fulton, Member
State Board of Education
- D Robert P. Haney, Member
State Board of Education
- E Ernest P. Lepore, Member
State Board of Education

Comments of Members of the State Board of Education

1. **COMMENT:** The commenter inquired as to whether the State Board of Education was being requested to consider the regulations on an expedited basis. **(B)**

RESPONSE: The Department is requesting that the regulation be considered on an expedited basis with only one discussion level because they are set to expire in February 2010.

2. **COMMENT:** The commenter asked what the current enrollment is in the Marie Katzenbach School for the Deaf. **(B)**

RESPONSE: The enrollment as of December 16, 2009 was 188 students.

3. **COMMENT:** The commenter inquired as to the maximum capacity for enrollment of the Marie Katzenbach School for the Deaf. **(B)**

RESPONSE: The Department notes that the school could accommodate at least 240 students.

4. **COMMENT:** The commenter inquired as to how the school is currently faring with respect to its budget and fiscal situation. **(A)**

RESPONSE: The Department notes that the school is currently on relatively sound fiscal footing, and is constantly working to ensure that it will remain so. In fact, the Department is currently projecting and assessing needs for the 2012 budget year to ensure that it will continue to be able to provide the valuable educational services of the school going forward. In addition, the Department is consistently working to identify areas where cost savings and efficiencies can be achieved. The Katzenbach school serves both day students and boarding students, which entails a variety of costs, including educating students, providing meals, sleeping accommodations and other social services. The Department is consistently working to better provide these services in a more cost efficient manner.

5. **COMMENT:** The commenter asked how the Marie Katzenbach School for the Deaf is funded and whether there are students in need that are unable to obtain services from the school. **(D)**

RESPONSE: The Katzenbach school is funded by a combination of tuition paid by the sending district for each student enrolled in the school and State funds. It is the IEP team including the parent that determines whether a student should be educated at the Katzenbach school, and the school district pays the tuition.

Because it is not operating at full capacity, students in need of its services may access them as needed. Also, the school provides a variety of services in addition to those provided its boarding and day students. The school constantly develops and implements many model programs that are utilized by other school districts, and also has a specialized child study team for conducting evaluations of deaf students that school districts without such resources may utilize.

6. **COMMENT:** The commenter asked whether all students enter the Katzenbach school with a background in American Sign Language (ASL). **(E)**

RESPONSE: The Department notes that not all students enter the Katzenbach school with a background in ASL. Students as young as two years old are provided services by the school. Thus, many students enter with little or no ASL background. Other students do enter with a background in ASL and, through their emersion in ASL at the school, improve those skills while there.

7. **COMMENT:** The commenter asked whether the Katzenbach School provides support programs and services for parents. **(E)**

RESPONSE: The Katzenbach School does provide support services and programs for parents. Presentations on a variety of relevant topics are provided for parents monthly throughout the school year.

8. **COMMENT:** The commenter noted how impressed he was with the operation of the Katzenbach School and the programs it provides when he visited the school on numerous occasions. **(B)**

RESPONSE: The Department appreciates the commenter's support for the programs provided by the school.

9. **COMMENT:** The commenter inquired as to whether there is a Department issued certification for sign language interpreters. **(C)**

RESPONSE: The Department notes that there is an educational interpreter certification that qualified individuals may obtain. The requirements for obtaining the certification are set forth at N.J.A.C. 6A:9-13.18.



**Proposal Level
January 20, 2010**

State of New Jersey

DEPARTMENT OF EDUCATION
PO Box 500
TRENTON, NJ 08625-0500

TO: Members, State Board of Education

FROM: Lucille E. Davy, Commissioner

SUBJECT: Proposed Amendments to N.J.A.C. 6A:21

REASON
FOR ACTION: Re-adoption of N.J.A.C. 6A:21 with Amendments

PROJECTED
SUNSET DATE: February, 2015

Summary

Pursuant to Executive Order 66(1978), N.J.A.C. 6A:21 will expire February 10, 2010. In accordance with N.J.S.A. 52:14B-1 *et seq.*, implementing rules of the Office of Administrative Law and the State Board Rulemaking Process set forth at N.J.A.C. 6A:6, the Department proposes to readopt N.J.A.C. 6A:21, with minor amendments as detailed below. Chapter 6A:21 was adopted effective May 1, 2000 as part of the comprehensive review of code process. The chapter was readopted effective March 23, 2005. Chapter 6A:21 sets forth rules for educating students with auditory impairments from birth to age 21 at the Katzenbach school. The rules address eligibility, admission, and graduation of students at the Katzenbach School, in accordance with N.J.S.A. 18A-61 *et seq.* The rules also provide an appeals process if a student is refused admission to the Katzenbach School.

The Katzenbach School was established in 1882. At its inception, it was overseen by a board of trustees that included the Governor, the comptroller, the State superintendent of public instruction, and several citizens. The Katzenbach School today is managed by a superintendent, who receives input from a Citizen Advisory Board consisting of seven to 15 persons, who are recommended for appointment by the State Board of Education and approved by the Governor. The superintendent, under the

direction of the Commissioner of Education, is responsible for the operational oversight of the school.

The Department is proposing only minor amendments to Chapter 6A:21 at this time in order to clarify the graduation requirements.

The following is a subchapter by subchapter description of the rules and a summary of the proposed amendments:

N.J.A.C. 6A:21-1 General Provisions

The purpose of this subchapter is to provide the scope of the rules and identify the parties to whom the rules apply. Terms that are used throughout the chapter are defined. The language in this subchapter is substantially identical to the previous 6A:21-1 with one amendment as follows:

The Department proposes to amend N.J.A.C. 6A:21-1.2 to correct the citation to N.J.S.A. 18A:61-1.

N.J.A.C. 6A:21-2 Student Requirements

This subchapter specifies the eligibility requirements for admission to the Katzenbach school. Rules covering eligibility for admission and tuition are set forth in this subchapter. In addition, graduation requirements are delineated in these rules. The language in this subchapter is similar to the previous 6A:21-1 with amendments as follows:

The Department proposes to amend N.J.A.C. 6A:21-2.3 to cite applicable regulations with respect to graduation requirements for students with disabilities. In addition, provisions concerning exemption from graduation requirements are proposed for deletion, as the cross-referenced regulations set forth the requirements for substituting alternate proficiencies in order to satisfy the graduation requirements for a State endorsed diploma.

N.J.A.C. 6A:21-3 Sending District Board of Education Requirements

This subchapter sets forth the requirements for admission to the Katzenbach school. No amendments are proposed for these regulations.

N.J.A.C. 6A:21-4 Appeals

This subchapter addresses appeals of determinations made pursuant to chapter 6A:21. No amendments are proposed for these regulations.

Social Impact

This proposed re-adoption with amendments applies to the provision of educational services to students with auditory impairments. The Legislature established the Katzenbach school in order to ensure sufficient and appropriate services for students with auditory impairments. For well over a century, the Katzenbach School has been providing quality educational services to deaf and hard of hearing children from birth to 21 years of age. The school remains the sole residential educational program in the State for deaf and hard of hearing children, and continues to provide room and board during the school week. A residential school such as the Katzenbach School is the least restrictive environment for the children enrolled at the school.

The Katzenbach School offers the deaf and hard of hearing student access to communication throughout the entire school day, with both peers and staff. The school also offers students an array of support services and activities to meet their educational, emotional and social needs. The outreach benefits are outlined in the Katzenbach School's strategic plan and are described in the school's policy.

Parents and local sending district boards of education benefit from the opportunity to place deaf and hard of hearing students in this weekly 24-hour learning environment. The rules describe and clarify the responsibilities of the sending district boards of education to provide educational opportunities to their deaf and hard of hearing students.

The proposed re-adoption with amendments provides students with disabilities, parents, district officials and the general public concise rules governing application, admission, provision of services and tuition for the Katzenbach school.

Economic Impact

The Katzenbach School offers sending district boards of education an opportunity to provide quality educational programs and services to deaf and hard of hearing children at a very affordable tuition rate, which compares favorably with the rates of other service providers for the deaf. The school is able to maintain reasonable tuition rates in part due to the State's support and in part because of their own entrepreneurial efforts, for example through outreach services such as child study teams. These added services provide additional income to further reduce costs and support the improvement of programs and services.

The Katzenbach School actively seeks Federal and State grants, as well as foundation funding and private donations, to meet students' needs and the needs of the greater deaf community. While sending district boards of education incur costs related to the transportation of students, those costs would be incurred for any out-of-district

placement. District boards of education are eligible to receive State transportation aid to alleviate most transportation costs. The rules require that eligible students will continue to receive a free and appropriate education at the Katzenbach School. As such, the rules will not impose a financial burden upon the students enrolled or their families.

Federal Standards Statement

The rules proposed for readoption and recodification with amendments will not be inconsistent with or exceed any Federal requirements or standards. The rules proposed for readoption with amendments are in complete compliance with the Individuals with Disabilities Act (IDEA). The Katzenbach School provides a free and appropriate public education to students with disabilities. It also provides all other rights and protections for students and their parents as are applicable to public and private local education agencies in the State, to the extent that children with disabilities are enrolled in those schools.

Jobs Impact

The New Jersey Department of Education does not anticipate that the proposed readoption with amendments would result in the creation or loss of jobs in the State of New Jersey.

Agriculture Industry Impact

The New Jersey Department of Education anticipates that the proposed readoption with amendments will not have any impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

The rules proposed for readoption with amendments do not impose reporting, recordkeeping or other compliance requirements on small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a regulatory flexibility analysis is not required. The rules proposed for readoption impact solely on district boards of education of public schools and State facility education programs and the agencies approved to operate them.

Smart Growth Impact

The proposed amendments will not impact the achievement of smart growth or the State Plan for Development or Redevelopment.

Full text of the proposed readoption follows (additions indicated underlined thus; deletions indicated in brackets [thus]):

CHAPTER 21. MARIE H. KATZENBACH SCHOOL FOR THE DEAF

SUBCHAPTER 1. GENERAL PROVISIONS

6A:21-1.1 Purpose and scope of the Katzenbach School

(a) The purpose of this chapter is to provide rules regarding eligibility, admission, transportation, and graduation of students to the Marie H. Katzenbach School for the Deaf (Katzenbach School) in accordance with N.J.S.A. 18A:61. The rules also provide an appeals process if a student is refused admission to the Katzenbach School.

(b) The rules apply to public district boards of education that make application to the Department of Education (Department) to enroll students at the Katzenbach School.

6A:21-1.2 Definitions for the Katzenbach School

The following words and terms, as used in this chapter, shall have the following meaning, unless the content clearly indicates otherwise.

"Marie H. Katzenbach School for the Deaf" or "Katzenbach School" means the State operated residential and day education facility which provides instruction for auditorily impaired children from birth through age 21 in the following areas: early intervention, preschool through high school, and vocational education. The Katzenbach School was established pursuant to N.J.S.A. 18A:61-1 et seq.

"Residential student" means a student who does not arrive at the Katzenbach School at the beginning of each school day and does not leave the Katzenbach School at the end of each school day.

"Sending district board of education" means a district board of education that makes application for or sends a student to the Katzenbach School.

SUBCHAPTER 2. STUDENT REQUIREMENTS

6A:21-2.1 Eligibility for admission to the Katzenbach School.

(a) An applicant shall be eligible to attend the Katzenbach School based on the following criteria:

1. All applicants, ages three through 21, shall be classified as auditorily impaired, preschool-disabled or multiply-disabled with an auditory deficit in accordance with N.J.S.A. 18A:46-8 and as defined in N.J.A.C. 6A:14-3.5.
2. Applicants shall have a residence other than the Katzenbach School on days when the school is not in operation, including weekends.

(b) No eligible New Jersey applicant shall be denied admission due to the enrollment of out-of-State students.

6A:21-2.2 Tuition for students attending the Katzenbach School

(a) The education provided at the Katzenbach School shall be provided at no expense to auditorily impaired children, their parents or guardians if:

1. The parents or guardians of such children reside in the State;
2. The student is domiciled within the State; or
3. The student resides in the home of another person domiciled within the State and is supported by such other person gratis as if he or she were such other person's own child, subject to compliance with the requirements of N.J.S.A. 18A:38-1(b).

(b) The Commissioner shall establish the tuition rate charged to out-of-State students.

6A:21-2.3 Graduation from the Katzenbach School

(a) An enrolled student who completes the high school program at the Katzenbach School [shall be deemed to have met] and who has satisfied the high school graduation requirements according to N.J.A.C. 6A:8-5.1, N.J.A.C. 6A:14-3.7(e)9 and N.J.A.C. 6A:14-4.11 shall be eligible for a State-endorsed high school diploma.

1. The student shall have the choice of receiving the State-endorsed high school diploma of the Marie H. Katzenbach School for the Deaf or the State-endorsed high school diploma of the sending district board of education.

[(b) An enrolled student who completes the high school program at the Katzenbach School, but who is exempted from meeting the high school graduation requirements as specified in the student's individualized education plan, shall qualify for a Stateendorsed high school diploma.

1. The student shall have the choice of receiving the State-endorsed high school diploma of the Marie H. Katzenbach School for the Deaf or the State-endorsed high school diploma of the sending district board of education.]

SUBCHAPTER 3. SENDING DISTRICT BOARD OF EDUCATION REQUIREMENTS

6A:21-3.1 Admissions process for the Katzenbach School

(a) The sending district board of education shall apply for a student's admission to the Katzenbach School.

1. The sending district board of education shall submit a completed application form that includes:

- i. Information regarding the student and the school district; and
- ii. Copies of all assessments and reports as required by N.J.A.C. 6A:14- 3.4, 3.5, 3.7 and 3.8.

(b) The superintendent of the Katzenbach School shall notify the parent/guardian and sending district board of education regarding the disposition of the student's application within 30 calendar days of receipt of the application.

6A:21-3.2 (Reserved)

SUBCHAPTER 4. APPEALS

6A:21-4.1 Appeals process for the Katzenbach School

Appeals regarding the rules of this chapter shall be made in writing to the Commissioner of Education in accordance with N.J.A.C. 6A:3-1.3 to 1.17.